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MARQUIS BREAU

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,	)	Case No. 03-CR-00537-WBS_____
	)	
Plaintiff,	)	
	)	
v.	)	STIPULATION AND ORDER REGARDING
	)	DEFENDANT'S ADMISSION TO VIOLATION
	)	OF TERM OF SUPERVISED RELEASE;
	)	DISPOSITION; AND DEFENDANT'S
MARQUIS BREAU,	)	WAIVER OF APPEARANCE
	)	
Defendant.	)	Judge: Hon. William B. Shubb
	)	Current Date: May 4, 2020
	)	Time: 9:00 a.m.

The parties, Defendant MARQUIS BREAU, represented by Assistant Federal Defender Rachelle Barbour, and the UNITED STATES, represented by Assistant United States Attorney Aaron D. Pennekamp, along with the UNITED STATES PROBATION OFFICE, by and through Supervising United States Probation Officer Shannon Morehouse, hereby set forth the following stipulations and requests regarding Mr. Breau's admission of a violation of his term of supervised release and the appropriate disposition in this case.

1. In sum, the Defendant, the United States, and the United States Probation Office agree that the appropriate resolution in this case is: (a) for Mr. Breau to admit to Charge 4 in the pending Superseding Violation Petition (Document 64, filed April 24, 2020); and (b) for the

1 United States and the United States Probation Office to dismiss the remaining charges in the  
2 Superseding Violation Petition. Moreover, in light of this agreement, the parties jointly request  
3 that this Court find Mr. Breaux in violation of the terms of his supervised release and sentence  
4 him to time served with no term of supervision to follow. Should the Court follow this joint  
5 request, the parties request that the Court issue a release order for Mr. Breaux and vacate the  
6 pending admit/deny hearing date, which is currently set for May 4, 2020.

7 2. In light of this agreed-upon resolution, Mr. Breaux agrees and stipulates to the following:

8 That he has received the Superseding Violation Petition and has had sufficient time to  
9 discuss the violation charges with his counsel, that he understands the charges, and that  
10 he wishes to admit to Charge 4 of the Superseding Violation Petition, which charges him  
11 with a new law violation – a no contest plea to felony charges in Sacramento County  
12 Superior Court on August 25, 2009. Mr. Breaux admits that he did commit such a new  
13 law violation. Indeed, he has read and understands the factual basis supporting the  
14 alleged new law violation in the Superseding Violation Petition, and he stipulates that the  
15 facts described in that factual basis are accurate. Moreover, Mr. Breaux admits that the  
16 facts described in that factual basis fully support the charged new law violation.

14 Mr. Breaux acknowledges and understands that his admission concerning Charge 4 of the  
15 Superseding Violation Petition provides the Court with a basis to find him in violation of  
16 his terms of supervised release. He understands and acknowledges that this admission  
17 carries with it potential consequences, including a maximum possible term of  
18 incarceration of three years as discussed in the Revocation Guide at page 8 of Document  
19 64.

18 Mr. Breaux accordingly knowingly and voluntarily ADMITS Charge 4 of the  
19 Superseding Violation Petition. He was convicted of a new law violation in August 2009  
20 as charged in the petition and was sent to prison. He did violate the mandatory condition,  
21 which states, “The defendant shall not commit another federal, state, or local crime.”

21 Mr. Breaux also acknowledges and understands that he has a right to a revocation hearing  
22 concerning Charge 4 of the Superseding Violation Petition, where the government would  
23 bear the burden of proving Charge 4 by a preponderance of the evidence. Mr. Breaux  
24 agrees that in admitting this violation, he understands all of his rights under Federal Rule  
25 of Criminal Procedure 32.1(b)(2), and that he has received the opportunity to exercise all  
26 of those rights, including the right to a revocation hearing, the right to written notice of  
27 the alleged violation, the right to disclosure of the evidence against him, the right to an  
28 opportunity to appear, present evidence, and question any adverse witness, the right to be  
represented by appointed counsel, and the right to an opportunity to make a statement and  
present information in mitigation. Pursuant to Federal Rule of Criminal Procedure  
32.1(b)(2), Mr. Breaux waives any further exercise of those rights in agreeing to this  
stipulation.

Similarly, Mr. Breaux acknowledges and understands all of his rights under Federal rule of Criminal Procedure 32.1(c), including his right to a hearing before the Court modifies the conditions of his supervised release, his right to counsel, and his right to an opportunity to make a statement and present any information in mitigation. Pursuant to Federal Rule of Criminal Procedure 32.1(c)(2)(A), Mr. Breaux explicitly waives each of those rights, including the right to a disposition or modification hearing concerning Charge 4 of the Superseding Violation Petition.

With respect to his personal appearance in Court, Mr. Breaux fully waives his right to a court appearance regarding Charge 4 of the Superseding Violation Petition. He has fully spoken with counsel and agrees that her signature on his behalf on this stipulation operates to bind him to this stipulation and these requests. Due to the coronavirus pandemic, this Court has authorized counsel to sign such documents on behalf of her client (CAED General Order 616), and by her signature below, defense counsel certifies that Mr. Breaux has spoken with her fully and authorized her to sign on his behalf in support of this stipulation as well as to waive any further Court appearance on this matter.<sup>1</sup>

3. The parties and the Probation Office jointly stipulate and request the following:

That the Court accept Mr. Breaux's waivers in this stipulation and agree to proceed without a court appearance.

That the Court accept Mr. Breaux's admission to Charge 4 of the Superseding Violation Petition and enter it on the record.

That the Court find Mr. Breaux in violation of his terms of supervised release imposed on November 26, 2007.

That the Court enter an order sentencing Mr. Breaux to time served in federal custody on this violation.

That the Court not impose any additional term of supervision.

That the Court dismiss the remaining charges in the violation petition.

That the Court issue a release order, so that Mr. Breaux may be released from custody of the United States Marshal on the disposition of this matter.

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<sup>1</sup> CAED General Order 616 states that "where a defendant's signature is called for, unless otherwise ordered by the court, defense counsel may sign electronically on the defendant's behalf using the format '/s/ name' and file the signed document electronically after defendant has an opportunity to consult with counsel and consents to counsel's signing on defendant's behalf."



**ORDER**

The Court hereby adopts the stipulations and requests above, and will issue a Judgment and Commitment Order consistent with them. The Court accepts Mr. Breaux's admission to Charge 4 and finds him in violation of his terms of supervised release. The Court dismisses the remaining charges. The Court sentences Mr. Breaux to time served in this case, and will issue a release order forthwith releasing him from federal custody. The Court hereby vacates the May 4, 2020 hearing in this matter.

Dated: April 28, 2020

  
WILLIAM B. SHUBB  
UNITED STATES DISTRICT JUDGE